

IC 27-8-28

Chapter 28. Internal Grievance Procedures

IC 27-8-28-1

"Accident and sickness insurance policy" defined

Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the kinds of insurance described in Class 1(b) and 2(a) of IC 27-1-5-1.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-2

"Commissioner" defined

Sec. 2. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

Amended by P.L.1-2002, SEC.113.

IC 27-8-28-3

"Covered individual" defined

Sec. 3. As used in this chapter, "covered individual" means an individual who is covered under an accident and sickness insurance policy.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-4

"Department" defined

Sec. 4. As used in this chapter, "department" refers to the department of insurance.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-5

"External grievance" defined

Sec. 5. As used in this chapter, "external grievance" means the independent review under IC 27-8-29 of a grievance filed under this

chapter.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-6

"Grievance" defined

Sec. 6. As used in this chapter, "grievance" means any dissatisfaction expressed by or on behalf of a covered individual regarding:

- (1) a determination that a service or proposed service is not appropriate or medically necessary;
- (2) a determination that a service or proposed service is experimental or investigational;
- (3) the availability of participating providers;
- (4) the handling or payment of claims for health care services;
- or
- (5) matters pertaining to the contractual relationship between:
 - (A) a covered individual and an insurer; or
 - (B) a group policyholder and an insurer;

and for which the covered individual has a reasonable expectation that action will be taken to resolve or reconsider the matter that is the subject of dissatisfaction.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

Amended by P.L.1-2002, SEC.114.

IC 27-8-28-7

"Grievance procedure" defined

Sec. 7. As used in this chapter, "grievance procedure" means a written procedure established and maintained by an insurer for filing, investigating, and resolving grievances and appeals.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-8

"Insured" defined

Sec. 8. As used in this chapter, "insured" means:

- (1) an individual whose employment status or other status except family dependency is the basis for coverage under a group accident and sickness insurance policy; or
- (2) in the case of an individual accident and sickness insurance policy, the individual in whose name the policy is issued.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-9

"Insurer" defined

Sec. 9. As used in this chapter, "insurer" means any person who delivers or issues for delivery an accident and sickness insurance policy or certificate in Indiana.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-10

Grievance procedure to comply with chapter requirements

Sec. 10. An insurer shall establish and maintain a grievance procedure that complies with the requirements of this chapter for the resolution of grievances initiated by a covered individual.
As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-11

Commissioner may examine procedure

Sec. 11. The commissioner may examine the grievance procedure of any insurer.
As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-12

Grievance records

Sec. 12. An insurer shall maintain all grievance records received by the insurer after the most recent examination of the insurer's grievance procedure by the commissioner.
As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-13

Insurer to provide notice to insured

Sec. 13. (a) An insurer shall provide timely, adequate, and appropriate notice to each insured of:

- (1) the grievance procedure required under this chapter;
- (2) the external grievance procedure required under IC 27-8-29;
- (3) information on how to file:
 - (A) a grievance under this chapter; and
 - (B) a request for an external grievance review under IC 27-8-29; and
- (4) a toll free telephone number through which a covered individual may contact the insurer at no cost to the covered individual to obtain information and to file grievances.

(b) An insurer shall prominently display on all notices to covered individuals the toll free telephone number and the address at which a grievance or request for external grievance review may be filed.
As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-14

Filing grievance; toll free number

Sec. 14. (a) A covered individual may file a grievance orally or in writing.

(b) An insurer shall make available to covered individuals a toll free telephone number through which a grievance may be filed. The toll free telephone number must:

- (1) be staffed by a qualified representative of the insurer;
- (2) be available for at least forty (40) hours per week during normal business hours; and
- (3) accept grievances in the languages of the major population groups served by the insurer.

(c) A grievance is considered to be filed on the first date it is received, either by telephone or in writing.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-15

Assistance in filing grievance; designation of representative

Sec. 15. (a) An insurer shall establish procedures to assist covered individuals in filing grievances.

(b) A covered individual may designate a representative to file a grievance for the covered individual and to represent the covered individual in a grievance under this chapter.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-16

Policies and procedures for timely resolution of grievances

Sec. 16. (a) An insurer shall establish written policies and procedures for the timely resolution of grievances filed under this chapter. The policies and procedures must include the following:

(1) An acknowledgment of the grievance, given orally or in writing, to the covered individual within five (5) business days after receipt of the grievance.

(2) Documentation of the substance of the grievance and any actions taken.

(3) An investigation of the substance of the grievance, including any aspects involving clinical care.

(4) Notification to the covered individual of the disposition of the grievance and the right to appeal.

(5) Standards for timeliness in:

(A) responding to grievances; and

(B) providing notice to covered individuals of:

(i) the disposition of the grievance; and

(ii) the right to appeal;

that accommodate the clinical urgency of the situation.

(b) An insurer shall appoint at least one (1) individual to resolve a grievance.

(c) A grievance must be resolved as expeditiously as possible, but not more than twenty (20) business days after the insurer receives all information reasonably necessary to complete the review. If an insurer is unable to make a decision regarding the grievance within the twenty (20) day period due to circumstances beyond the insurer's control, the insurer shall:

(1) before the twentieth business day, notify the covered individual in writing of the reason for the delay; and

(2) issue a written decision regarding the grievance within an additional ten (10) business days.

(d) An insurer shall notify a covered individual in writing of the resolution of a grievance within five (5) business days after completing an investigation. The grievance resolution notice must include the following:

(1) A statement of the decision reached by the insurer.

(2) A statement of the reasons, policies, and procedures that are the basis of the decision.

(3) Notice of the covered individual's right to appeal the decision.

(4) The department, address, and telephone number through which a covered individual may contact a qualified representative to obtain additional information about the decision or the right to appeal.

*As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.
Amended by P.L.1-2002, SEC.115.*

IC 27-8-28-17

Policies and procedures for timely resolution of appeals of grievance decisions; filing of report for violation

Sec. 17. (a) An insurer shall establish written policies and procedures for the timely resolution of appeals of grievance decisions. The procedures for registering and responding to oral and written appeals of grievance decisions must include the following:

(1) Written or oral acknowledgment of the appeal not more than five (5) business days after the appeal is filed.

(2) Documentation of the substance of the appeal and the actions taken.

(3) Investigation of the substance of the appeal, including any aspects of clinical care involved.

(4) Notification to the covered individual:

(A) of the disposition of an appeal; and

(B) that the covered individual may have the right to further remedies allowed by law.

(5) Standards for timeliness in:

(A) responding to an appeal; and

(B) providing notice to covered individuals of:

(i) the disposition of an appeal; and

(ii) the right to initiate an external grievance review under IC 27-8-29;

that accommodate the clinical urgency of the situation.

(b) In the case of an appeal of a grievance decision described in section 6(1) or 6(2) of this chapter, an insurer shall appoint a panel of one (1) or more qualified individuals to resolve an appeal. The panel must include one (1) or more individuals who:

(1) have knowledge of the medical condition, procedure, or treatment at issue;

(2) are licensed in the same profession and have a similar specialty as the provider who proposed or delivered the health care procedure, treatment, or service;

(3) are not involved in the matter giving rise to the appeal or in the initial investigation of the grievance; and

(4) do not have a direct business relationship with the covered individual or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

(c) An appeal of a grievance decision must be resolved:

(1) as expeditiously as possible, reflecting the clinical urgency

of the situation; and

(2) not later than forty-five (45) days after the appeal is filed.

An insurer that violates this subsection commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

(d) If an insurer violates subsection (c), the insurer shall file a report with the department during the quarter in which the violation occurred concerning the insurer's compliance with subsection (c). The report must include the following:

(1) The number of appealed grievance decisions that were not resolved as required under subsection (c).

(2) The reason each appeal described in subdivision (1) was not resolved.

(e) An insurer shall allow a covered individual the opportunity to:

(1) appear in person before; or

(2) if unable to appear in person, otherwise appropriately communicate with;

the panel appointed under subsection (b).

(f) An insurer shall notify a covered individual in writing of the resolution of an appeal of a grievance decision within five (5) business days after completing the investigation. The appeal resolution notice must include the following:

(1) A statement of the decision reached by the insurer.

(2) A statement of the reasons, policies, and procedures that are the basis of the decision.

(3) Notice of the covered individual's right to further remedies allowed by law, including the right to external grievance review by an independent review organization under IC 27-8-29.

(4) The department, address, and telephone number through which a covered individual may contact a qualified representative to obtain more information about the decision or the right to an external grievance review.

*As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.
Amended by P.L.1-2002, SEC.116; P.L.178-2003, SEC.72.*

IC 27-8-28-18

Insurer prohibited from taking action

Sec. 18. An insurer may not take action against a provider solely on the basis that the provider represents a covered individual in a grievance filed under this chapter.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-19

Filing description of grievance procedure

Sec. 19. (a) An insurer shall each year file with the commissioner a description of the grievance procedure of the insurer established under this chapter, including:

(1) the total number of grievances handled through the procedure during the preceding calendar year;

(2) a compilation of the causes underlying those grievances; and

(3) a summary of the final disposition of those grievances.

(b) The information required by subsection (a) must be filed with the commissioner on or before March 1 of each year. The commissioner shall:

(1) make the information required to be filed under this section available to the public; and

(2) prepare an annual compilation of the data required under subsection (a) that allows for comparative analysis.

(c) The commissioner may require any additional reports as are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.

IC 27-8-28-20

Adoption of rules

Sec. 20. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.66-2001, SEC.2 and P.L.203-2001, SEC.13.